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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,939	01/29/2002	Mark LeVake	21958-022	7162
35437	7590	10/31/2005	EXAMINER	
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO 666 THIRD AVENUE NEW YORK, NY 10017			LANEAU, RONALD	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/059,939

Applicant(s)

LEVAKE ET AL.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,8,10,20,22,37,38,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,10,20,22,37,38,40 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. The amendment filed on 7/26/05 has been entered. Claims 1-5, 8, 10, 20, 22, 37-38, 40 and 41 are pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 5, 8, 10, 20, 37, 40 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Defosse et al (US 2004/0133653 A1).

As per claim 1, Defosse discloses a vending machine having a vending machine controller with a DEX interface 22 (DEX is defined as Direct Exchange) and a multi-drop-bus interface 26, an Enabler comprising: a wireless data network transceiver (audit device equipped with wireless transceivers, page 2, [0022], lines 4-6, fig. 1, 18) connected to said DEX interface 22 (fig. 1); a card reader for entering credit card account information (cashless reader, page 2, [0018], fig. 1, 30); and a micro-controller 24 in communication with said transceiver (audit device equipped with wireless transceivers, page 2, [0022], lines 4-6, fig. 1, 18) and connected to said multi-drop-bus interface 26.

As per claim 3, the cashless reader taught by Defosse inherently includes a magnetic swipe reader as claimed (fig. 1, 30).

As per claim 5, Defosse discloses a vending machine wherein said transceiver is operated on a wireless network that consists of a Code Division Multiple Access (CDMA) as claimed (page 13, [0137], lines 12-17).

As per claims 8, 10, Defosse discloses a system for managing information from a vending machine comprising: a DEX enabled vending machine 22 including: a vending machine controller for managing operation of the vending machine and having memory 28 for storing information related to the operation of said vending machine and information related to at least one of the inventory of vended product and sales of the vended product; a DEX interface 22 for transferring audit data from said vending machine controller 24; a multi-drop-bus 26 for connection of peripheral devices to said vending machine controller 24; an Enabler device comprising: a wireless data network transceiver (audit device equipped with wireless transceivers, page 2, [0022], lines 4-6, fig. 1, 18) connected to said DEX interface 22 (fig. 1); a card reader for entering credit card account information (cashless reader, page 2, [0018], fig. 1, 30); and a micro-controller 24 in communication with said transceiver (audit device equipped with wireless transceivers, page 2, [0022], lines 4-6, fig. 1, 18) and connected to said multi-drop-bus interface 26.

As per claims 20 and 37, a method for managing information from a DEX enabled vending machine or a computer readable medium having computer-executable instructions for performing a method comprising: sending a command from a remote computer over a wireless network to a remote DEX enabled vending machine having a DEX port (page 3, [0036]), said command comprising one of: a first procedure for resetting data on said vending machine, wherein DEX data fields are cleared and said DEX port is disabled (user interface subsystem 90

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in fig. 2 includes a reset button that will clear the data fields and disable the DEX port as claimed; page 5, [0047]); a second procedure for auditing data on said vending machine, wherein data is sent back to the remote computer (pages 2-3, lines 5-11), and a third procedure for configuring data on said vending machine (page 3, [0030]), carrying out said procedure on said vending machine (all procedures are done on the vending machine).

As per claim 40, a point of sale device having a controller and an enabling device for enabling electronic payment (using credit card into the cashless slot) for purchases from said point of sale device (vending machine) and for communicating information between said point of sale device and a remote computer (handheld computer 14), said enabler comprising: a wireless data network transceiver connected to an auditing interface of said point of sale device controller (audit device equipped with wireless transceivers, page 2, [0022], lines 4-6, fig. 1, 18), wherein said auditing interface 18 at least transfers data from the controller (vmc 24); a card reader (cashless reader 30) for entering credit card account information (page 2, [0018]), said reader in communication with said transceiver (see fig. 1); and a micro-controller 24 in communication with said transceiver (audit device 18 equipped with wireless transceivers) and a master-slave controller interface of said point of sale (page 3, [0030]).

As per claim 41, a system for managing information from a point-of-sale device comprising: a remote computer having a database for storing information obtained from a point of sale device (hand-held computer 14), said remote computer in communication with a computer network (page 3, [0029]); a point of sale device including: a controller (vmc 24) for managing operation of the point of sale device and having memory 28 for storing information related to the operation of said point of sale device and information related to purchases of a

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product and/or service, an auditing interface 18 for transferring data from said controller (vmc 24), and a master-slave controller interface (page 3, [0030]); and an Enabler device in communication with said remote computer via said computer network, the enabler comprising: a wireless data network transceiver (audit device equipped with wireless transceivers, page 2, [0022], lines 4-6, fig. 1, 18) connected to said DEX interface 22 (fig. 1); a card reader for entering credit card account information (cashless reader, page 2, [0018], fig. 1, 30); and a micro-controller 24 in communication with said transceiver (audit device equipped with wireless transceivers, page 2, [0022], lines 4-6, fig. 1, 18) and connected to said multi-drop-bus interface 26.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2, 4, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Defosse et al (US 2004/0133653 A1) in view of Kolls (US 6,321,985 B1).

As per claims 2 and 9, Defosse discloses all the elements of the claimed invention but fails to disclose the concept of having a display in a vending machine but Kolls discloses a display 14 for customer to view their item using a vending machine (see fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the display as taught by Kolls into the system of Defosse because it would make it easier for customers to view the items being purchase for accuracy purposes.

As per claim 4, Defosse discloses all the elements of the claimed invention but fails to disclose the concept of having a speaker in a vending machine but Kolls discloses at least a speaker 22 seen in figure 1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the speaker as taught by Kolls into the system of Defosse because it would allow a buyer to not only view the item being purchased but also to listen to the name of the item from the speaker. That would increase accuracy of the selection.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-5, 8, 10, 20, 22, 37-38, 40 and 41 have been considered but are moot in view of the new ground(s) of rejection.

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Applicant's arguments about Defosse (US 6,457,308) are moot in view of the Patent Application Publication (US 2004/0133653 A1). Applicant's arguments about Kolls not teaching or suggesting "a method of sending a command from a remote computer over a wireless network to a remote DEX enabled vending where the command includes one of a first procedure for resetting data on the vending machine, where DEX data fields are cleared and the DEX port is disabled; a second procedure for auditing data on the vending machine, where DEX data is sent back to the remote computer; or a third procedure for configuring data on the vending machine." Contrary to Applicant's arguments, Kolls is only used in this combination for teaching a display 14 and a speaker 22 in a vending machine. Furthermore, Applicant argues that the present invention allows a remote computer to retrieve data, reset data (and disable a DEX port) as well as reconfigure data. The Examiner notes that the newly added limitations are all met by the newly used reference in Defosse (US 2004/0133653 A1). As a result, claims 1-5, 8, 10, 20, 22, 37-38, 40 and 41 are finally rejected.

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period



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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Ronald Laneau*

Ronald Laneau  
Examiner  
Art Unit 3627

10/27/05

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